



A BILL FOR AN ORDINANCE

TO AMEND CHAPTER 21, REVISED ORDINANCES OF HONOLULU 1990, AS AMENDED (THE LAND USE ORDINANCE), RELATING TO THE LAND USE ORDINANCE.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose and intent. The purpose of this ordinance is to make miscellaneous amendments to the Land Use Ordinance.

SECTION 2. Section 21-2.20, Revised Ordinances of Honolulu 1990, as amended ("Administrative procedures"), is amended by adding a new subsection (k) to read as follows:

- "(k) (1) Except as otherwise provided herein, the director may administratively authorize minor alterations, additions, or modifications to any approved permit required by this chapter, provided the minor modification request is reasonable, and consistent with the intent of the respective permit; does not significantly increase the intensity or scope of the use; and does not create adverse land use impacts upon the surrounding neighborhood.
- (2) Subdivision (1) shall not apply to:
- (A) Zone changes; and
- (B) The following council approvals, except to the extent that minor modifications are permitted by the express language of the council's approving resolution:
- (i) Plan Review Use approvals; and
- (ii) Approvals of conceptual plans for Planned Development-Resort and Planned Development-Commercial projects in the Waikiki Special District pursuant to Section 21-9.80-4(d).
- (3) Major alterations, additions, or modifications, and other alterations, additions, or modifications excepted by subdivision (2), shall be processed under the provisions for the applicable permit or approval."



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SECTION 3. Section 21-2.60, Revised Ordinances of Honolulu 1990, as amended ("Rules governing director's failure to act within specified time period"), is amended by amending subsection (a) to read as follows:

- "(a) Subject to subsections (b) and (c), the director may, in accordance with HRS Chapter 91, adopt rules having the force and effect of law which provide that if the director fails to act on applications for (i) a minor permit, (ii) a major permit requiring only the director's approval, or (iii) those portions of a one-stop permit application package (OSP) which require only the director's approval, within the time periods specified in Sections 21-2.40-1(c), 21-2.40-2(c)(6) and -(d), and 21-2.50(d), respectively, the applicable permit requiring only the director's approval shall be deemed approved to the extent that the proposal complies with all applicable laws, regulations, and rules, subject to the following conditions:
- (1) The use and/or development authorized by the permit shall be in general conformance with the project, as shown on plans and/or drawings on file with the department, which shall be deemed the approved plans for the project. Any modification to the project and/or plans shall be subject to the prior review of and approval by the director. Major modifications shall require a new permit; and
 - (2) Approval of the permit does not constitute compliance with any other land use ordinance or other governmental requirements, including, but not necessarily limited to, building permit approval, which are subject to separate review and approval. The applicant shall be responsible for insuring that the plans for the project deemed approved under the permit comply with all applicable land use ordinance and other governmental provisions and requirements; and
 - (3) The director may impose additional conditions, modify existing conditions, and/or delete conditions deemed satisfied, upon a finding that circumstances related to the approved project have significantly changed so as to warrant a modification to the conditions of the approval; and
 - (4) In the event of the noncompliance with any of the conditions of approval, the director may terminate any uses and/or development authorized by the permit, or halt their operation until all conditions are met, or declare the permit null and void, or seek civil enforcement."



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SECTION 4. Section 21-2.70, Revised Ordinances of Honolulu 1990, as amended ("Review of planning commission and/or council"), is amended by amending subsection (b) to read as follows:

- "(b) Special Districts, Other Amendments to the Land Use Ordinance, and Zone Changes. When the application or proposal is for (i) the establishment of or amendment to a special district, [or] (ii) other amendment to the land use ordinance, or (iii) a zone change[:] (in this subsection collectively referred to as "zoning ordinance proposals"):
- (1) (A) Other than council-initiated. The planning commission shall hold a public hearing within 45 days of receipt of the director's report and proposed ordinance. Within 30 days of the close of the public hearing, the planning commission shall transmit through the mayor to the council the director's report and proposed ordinance with its recommendations. The mayor shall transmit the director's report, proposed ordinance, and planning commission recommendations to the council within 30 days of receipt of the same from the planning commission.
 - (B) Council-initiated. Planning commission processing and mayoral transmission of zoning ordinance proposals initiated by the council pursuant to Revised Charter Section 6-1513 and Chapter 2, Article 24, including revisions or amendments to this chapter or ordinances designating and redesignating land to one or more zoning districts specified in this chapter, shall be governed by Chapter 2, Article 24.
 - (C) A proposed ordinance prepared by the director as an alternative to a council-initiated zoning ordinance proposal shall be deemed to be initiated by the director and shall be processed in accordance with paragraph (A) above.
- (2) Any person may bring a civil action to enforce any time limit established by subsection (1). The failure to meet any time limit established by subsection (1) shall not render the affected proposal null and void, and the council may act on the proposed ordinance after receipt thereof.
- (3) (A) The council shall hold a public hearing and may act by approving the ordinance as submitted or with modifications, or by denying it.
[If]



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- (B) For zoning ordinance proposals other than council-initiated proposals, if the council does not take final action within 90 days after receipt of the proposed ordinance from the planning commission, it shall be deemed denied[, provided that this time limit shall not apply to zoning ordinance proposals initiated by the council pursuant to Revised Charter Section 6-1513 and Chapter 2, Article 24]. The applicant may request, and the council may approve, an extension of time if the request is made in writing and approved prior to the requested effective date of the extension.
- (C) For zoning ordinance proposals initiated by the council pursuant to Revised Charter Section 6-1513 and Chapter 2, Article 24, if the council does not take final action prior to the automatic filing of the bill for the proposal pursuant to Section 1-2.4, the proposal shall be deemed denied; provided however, that the council may extend the time for consideration of the proposal one time only by introduction of a new bill for the proposal prior to the automatic filing of the original bill. The new bill shall be identical to the then-current form of the original bill. If the council does not take final action prior to the automatic filing of the new bill, the proposal shall be deemed denied. If more than one new bill is introduced prior to the automatic filing of the original bill, the proposal shall be deemed denied if the council does not take final action prior to the automatic filing of the first new bill."

SECTION 5. Section 21-2.90-1, Revised Ordinances of Honolulu 1990, as amended ("Application requirements"), is amended by amending subsection (a) to read as follows:

- "(a) A developer, owner, or lessee [(holding a lease for the property, the unexpired term of which is more than five years from the date of filing of the application)] may file an application for a conditional use permit with the director, provided that the conditional use sought is permitted in the particular district."

SECTION 6. Section 21-2.100, Revised Ordinances of Honolulu 1990, as amended ("Existing uses"), is amended by amending subsection (b) to read as follows:

- "(b) Existing use approval is subject to the following:
- (1) The existing uses and associated structures do not substantially limit, impair or preclude the use of surrounding properties for the principal uses permitted in the underlying district. This assessment may include impacts



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on traffic flow and control, off street parking and loading, sewerage, drainage and flooding, refuse and service areas, utilities, screening and buffering, signs, yards and other open spaces, lot dimensions, height, bulk and location of structures, hours and manner of operation, noise, lights, dust, odor and fumes.

- (2) Existing uses and structures shall meet the applicable zoning requirements at the time the uses and structures were approved. They need not meet the current underlying district regulations, nor the minimum development standards of this chapter; however, existing uses that involve dwelling units, other than those associated with a plantation community subdivision, must conform to the requirements relating to minimum land area and maximum number of units specified in Section 21-8.50-2 for cluster housing, in Section 21-3.60-2 for country clusters, and in Section 21-3.50-2 for agricultural clusters, whichever is applicable. For purposes of this subsection, a plantation community subdivision may include housing, and community and/or agricultural support buildings, as provided under HRS Section 205-4.5(a)(12).
- (3) When granting existing use approval, the director may impose conditions consistent with the purposes of this section and the permit which would otherwise be required.
- (4) Developments existing on the site shall be considered as an approved plan after review by the director.
- (5) Minor alterations, additions or modifications may be approved by the director, provided the proposal is consistent with the intent of the respective permit otherwise required by this chapter, and does not create adverse land use impacts upon the surrounding neighborhood. Major alterations, additions or modifications shall be processed under the applicable permit.
- (6) Any previous variance, conditional use permit or similar actions granted for the particular use shall continue in effect until superseded.
- (7) An existing use application shall be processed in accordance with Section 21-2.40-1."



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SECTION 7. Section 21-2-140-1, Revised Ordinances of Honolulu 1990, as amended ("Zoning adjustments -- Specific circumstances"), is amended by amending subsection (c) to read as follows:

- "(c) Flag Lot Access Width. Where unusual terrain or existing development does not allow the required access drive, the director may (i) adjust the minimum access width to no less than 10 feet, and (ii) allow more than dual access to an access drive, provided that the following criteria are met:
- (1) The appropriate government agencies do not object to the proposal;
 - (2) No more than 3 flag stems or access drives are located adjacent to one another, the access drive(s) do not serve more than 5 dwelling units, and the combined access drive pavement width does not exceed 32 feet; and
 - (3) When more than dual access to a flag stem(s) or access drive(s) is proposed, the design results in one common driveway and one curb cut to serve all lots adjoining the flag stem(s)."



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SECTION 8. Table 21-3, Revised Ordinances of Honolulu 1990, as amended ("Master Use Table"), is amended by amending the Industrial use category to add a new use for "Biofuel processing facilities," and to amend the "Repair establishments, major" use, to read as follows:

**"TABLE 21-3
MASTER USE TABLE**

In the event of any conflict between the text of this Chapter and the following table, the text of the Chapter shall control. The following table is not intended to cover the Waikiki Special District; please refer to Table 21-9.6(A).

KEY:	Ac	=	Special accessory use subject to standards in Article 5
	Cm	=	Conditional Use Permit-minor subject to standards in Article 5; no public hearing required (see Article 2 for exceptions)
	C	=	Conditional Use Permit-major subject to standards in Article 5; public hearing required
	P	=	Permitted use
	P/c	=	Permitted use subject to standards in Article 5
	PRU	=	Plan Review Use

ZONING DISTRICTS																		
USES (Note: Certain uses are defined in Article 10.)	P-2	AG-1	AG-2	Country	R-20, R-10	R-7.5, R-5, R-3.5	A-1	A-2	A-3	AMX-1	AMX-2	AMX-3	Resort	B-1	B-2	BMX-3	BMX-4	I-1
																		I-2
																		I-3
																		IMX-1

INDUSTRIAL

Biofuel processing facilities	C	C	C															Cm	Cm
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Repair establishments, major																		P/c	P	P
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SECTION 9. Section 21-4.30, Revised Ordinances of Honolulu 1990, as amended ("Yards and street setbacks"), is amended by amending subsection (d) to read as follows:

- "(d) Parking and loading shall not be allowed in any required yard, except parking and loading in front and side yards in agricultural, country and residential districts; and as provided under Section 21-6.70, which allows parking spaces to overlap required front and side yards by three feet if wheel stops are installed, and Section 21-6.130(f) which allows loading if replacement open space is provided."



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SECTION 10. Section 21-4.110, Revised Ordinances of Honolulu 1990, as amended ("Nonconformities"), is amended by amending subsection (b) to read as follows:

"(b) Nonconforming Structures.

- (1) If that portion of a structure which is nonconforming is destroyed by any means to an extent of more than 50 percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.
 - (A) Notwithstanding the foregoing provision, a nonconforming structure devoted to a conforming use which contains multifamily dwelling units owned by owners under the authority of HRS Chapter 514A, 514B or 421H, or units owned by a "cooperative housing corporation" as defined in HRS Section 421I-1, whether or not the structure is located in a special district, and which is destroyed by accidental means, including destruction by fire, hurricane, other calamity, or act of God, may be restored to its former condition, provided that such restoration is permitted by the building code and flood hazard regulations and is started within two years.
 - (B) The burden of proof to establish that the destruction of a structure was due to accidental means as described above and that the structure was legally nonconforming shall be on the owner.
 - (C) Except as otherwise provided in this section, no nonconforming structure that is voluntarily razed or required by law to be razed by the owner thereof may thereafter be restored except in full conformity with the provisions of this chapter.
- (2) If a nonconforming structure is moved, it shall conform to the provisions of this chapter.
- (3) Any nonconforming structure may be repaired, expanded or altered in any manner which does not increase its nonconformity.
- (4) Improvements on private property, which become nonconforming through the exercise of government's power of eminent domain, may obtain waivers from the provisions of this subsection, as provided by Section 21-2.130.



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- (5) Nonconforming commercial use density shall be regulated under the provisions of this subsection. For purposes of this section, "nonconforming commercial use density" means a structure which is nonconforming by virtue of the previously lawful mixture of commercial uses on a zoning lot affected by commercial use density requirements in excess of:
- (A) The maximum FAR permitted for commercial uses; or
 - (B) The maximum percentage of total floor area permitted for commercial uses."

SECTION 11. Section 21-4.110, Revised Ordinances of Honolulu 1990, as amended ("Nonconformities"), is amended by amending subsection (c) to read as follows:

"(c) Nonconforming Uses.

Strict limits are placed on nonconforming uses to discourage the perpetuation of these uses, and thus facilitate the timely conversion to conforming uses.

- (1) A nonconforming use shall not extend to any part of the structure or lot which was not arranged or designed for such use at the time of adoption of the provisions of this chapter or subsequent amendment; nor shall the nonconforming use be expanded in any manner, or the hours of operation increased. Notwithstanding the foregoing, a recreational use that is accessory to the nonconforming use may be expanded or extended if the following conditions are met:
 - (A) The recreational accessory use will be expanded or extended to a structure in which a permitted use also is being conducted, whether that structure is on the same lot or an adjacent lot; and
 - (B) The recreational accessory use is accessory to both the permitted use and the nonconforming use.
- (2) Any nonconforming use that is discontinued for any reason for 12 consecutive months, or for 18 months during any three-year period, shall not be resumed; however, a temporary cessation of the nonconforming use for purposes of ordinary repairs for a period not exceeding 120 days during any 12-month period shall not be considered a discontinuation.



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- (3) Work may be done on any structure devoted in whole or in part to any nonconforming use, provided that work on the nonconforming use portion shall be limited to ordinary repairs. For purposes of this subsection, ordinary repairs shall only be construed to include the following:
- (A) The repair or replacement of existing walls, floors, roofs, fixtures, wiring or plumbing; or
 - (B) May include work required to comply with city, state, or federal mandates such as, but not limited to, the Americans with Disabilities Act (ADA) or the National Environmental Protection Act (NEPA); or
 - (C) May include interior and exterior alterations, provided that there is no physical expansion of the nonconforming use or intensification of the use.

Further, ordinary repairs shall not exceed 10 percent of the current replacement cost of the structure within a 12-month period, and the floor area of the structure, as it existed on October 22, 1986, or on the date of any subsequent amendment to this chapter pursuant to which a lawful use became nonconforming, shall not be increased.

- (4) Any nonconforming use may be changed to another nonconforming use [of the same nature and general impact, or to a more restricted use] subject to the prior approval of the director, provided that [the]:
- (A) The change [to a more restricted] in use may be made only if [the relation of the use to the surrounding property is such that] any adverse effects on neighboring occupants and [neighboring] properties will not be greater than if the original nonconforming use continued; and
 - (B) The director may impose conditions on the change in nonconforming use necessary or appropriate to minimize impact and/or prevent greater adverse effects related to a proposed change in use.

Other than as provided as "ordinary repairs" under subdivision (3), improvements intended to accommodate a change in nonconforming use or tenant shall not be permitted.



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- (5) Any action taken by an owner, lessee, or authorized operator which reduces the negative effects associated with the operation of a nonconforming use -- such as, but not limited to, reducing hours of operation or exterior lighting intensity -- shall not be reversed."

SECTION 12. Chapter 21, Article 5, Revised Ordinances of Honolulu 1990, as amended ("Specific Use Development Standards"), is amended by adding a new section for "Biofuel processing facilities," to be appropriately numbered by the revisor of ordinances and to read as follows:

"Sec. 21-5. Biofuel processing facilities.

No biofuel processing facility shall be located within 1,500 feet of any zoning lot in a country, residential, apartment, apartment mixed use or resort district. When it can be determined that potential impacts will be adequately mitigated due to prevailing winds, terrain, technology or similar considerations, this distance may be reduced, provided that at no time shall the distance be less than 500 feet."

SECTION 13. Chapter 21, Article 5, Revised Ordinances of Honolulu 1990, as amended ("Specific Use Development Standards"), is amended by adding a new section for "Repair establishments, major," to be appropriately numbered by the revisor of ordinances and to read as follows:

"Sec. 21-5. Repair establishments, major.

In the I-1 zoning district, the following standards shall apply:

- (a) No major repair establishment shall be located within 100 feet of any zoning lot in a residential, apartment, or apartment mixed use district.
- (b) If a major repair establishment is within 300 feet of any zoning lot in a residential, apartment, or apartment mixed use district, there shall be no major repair work performed or external activities of any kind conducted between the hours of 10 p.m. and 7 a.m."

SECTION 14. Section 21-5.350, Revised Ordinances of Honolulu 1990, as amended ("Home occupations"), is amended to read as follows:

"Sec. 21-5.350 Home occupations.

Home occupations as an accessory use to dwelling units are permitted under the following restrictions and standards:



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- (a) Home occupations shall be incidental and subordinate to the principal use of the site as a residence and shall not change the character [and] or the external appearance of either the dwelling or the surrounding neighborhood.
- (b) Only household members shall be employed under the home occupation. Notwithstanding the foregoing, when the home occupation is home-based child care, one caregiver, not a member of the household, may be employed as a substitute for the principal caregiver if an emergency renders the principal caregiver unavailable, provided that in no event shall such substitute employment exceed five days per calendar month. As used in this subsection, "emergency" includes but is not limited to illness of the principal caregiver or an immediate relative of the principal caregiver.
- (c) There shall be no exterior sign that shows the building is used for anything but residential use. There shall be no exterior displays or advertisements.
- (d) There shall be no outdoor storage of materials or supplies.
- (e) Indoor storage of materials and supplies shall be enclosed and shall not exceed 250 cubic feet or 20 percent of the total floor area, whichever is less.
- (f) Articles sold on the premises shall be limited to those produced by the home occupation and to instructional materials pertinent to the home occupation.
- (g) Home occupations which depend on client visits, including group instruction, shall provide one off-street parking space per five clients on the premises at [one] any given time. This shall be in addition to, and shall not obstruct the parking required for the dwelling use. Residents of multifamily buildings may fulfill the requirement by the use of guest parking with the approval of the building owner (management) or condominium association.
- (h) For those activities which may have potential negative noise impacts on adjoining residences, the director may require that such activities be conducted in fully enclosed, noise-attenuated structures.
- (i) The following activities are not permitted as home occupations:
 - (1) Automobile repair and painting. However, any repair and painting of vehicles owned by household members shall be permitted, provided that the number of vehicles repaired or painted shall not exceed five per year per dwelling unit. A household member providing any legal document



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showing ownership of an affected vehicle shall be deemed to satisfy this requirement.

- (2) Contractor's storage yards.
- (3) Care, treatment or boarding of animals in exchange for money, goods or services. The occasional boarding and the occasional grooming of animals not exceeding five animals per day shall be permitted as home occupations.
- (4) Those on-premises activities and uses which are only permitted in the industrial districts.
- (5) Use of dwellings or lots as a headquarters for the assembly of employees for instructions or other purposes, or to be dispatched for work to other locations.
- (6) Sale of guns and ammunition.
- (7) Mail and package handling and delivery businesses.
- (j) There shall be no parking on the street of commercial vehicles associated with the home occupation, other than the occasional, infrequent, and momentary parking of a vehicle for pick-ups and/or deliveries as a service to the home occupation."

SECTION 15. Section 21-5.380, Revised Ordinances of Honolulu 1990, as amended ("Joint development of two or more adjacent zoning lots"), is amended to read as follows:

"Sec. 21-5.380 Joint development of two or more adjacent [zoning] subdivision lots.

- (a) Whenever two or more [zoning] subdivision lots are developed in accordance with the provisions of this section, they shall be considered and treated as one zoning lot.
- (b) An owner, owners, duly authorized agents of the owners or duly authorized lessees holding leases with a minimum of 30 years remaining in their terms of adjacent lots who believe that joint development of their property would result in a more efficient use of land shall apply for a conditional use permit (minor) to undertake such development.



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- (c) When applying for a conditional use permit, the applicants shall submit an agreement which binds themselves and their successors in title or lease, individually and collectively, to maintain the pattern of development proposed in such a way that there will be conformity with applicable zoning regulations. The right to enforce the agreement shall also be granted to the city. The agreement shall be subject to the approval of the corporation counsel of the city.
- (d) If the director finds that the proposed agreement assures future protection of the public interest, the director shall issue the conditional use permit. Upon issuance of the permit, the agreement, which shall be part of the conditions of the permit, shall be filed as a covenant running with the land with the bureau of conveyances or the registrar of the land court. Proof of such filing in the form of a copy of the covenant certified by the appropriate agency shall be filed with the director prior to the issuance of the building permit."

SECTION 16. Section 21-5.450, Revised Ordinances of Honolulu 1990, as amended ("Meeting facilities"), is amended by amending subsection (a) to read as follows:

- "(a) In the AG-2, country, residential, apartment and apartment mixed use districts, the following standards shall apply:
 - (1) Accessory eating and drinking establishments shall not be permitted, except in the apartment mixed use district.
 - (2) The director may require that certain structures be sound-proofed and may establish hours of operation for amplification equipment.
 - (3) [The minimum lot size shall be 20,000 square feet.
 - (4) The minimum street frontage shall be 75 feet.
 - (5)] All meeting facilities shall be located with access to a street or right-of-way of minimum access width and sufficient street frontage as determined by the appropriate agencies."

SECTION 17. Section 21-5.700, Revised Ordinances of Honolulu 1990, as amended ("Wind machines"), is amended to read as follows:

"Sec. 21-5.700 Wind machines.



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- (a) All wind machines shall be set back from all property lines a minimum distance equal to the height of the system. Height shall include the height of the tower and the farthest vertical extension of the wind machine.
- (b) In residential zoning districts, in addition to the above, the following shall be applicable:
 - (1) Tower climbing apparatus and blade tips of the wind machine shall be no lower than 15 feet from ground level, unless enclosed by a six-foot-high fence and shall not be within seven feet of any roof or structure unless the blades are completely enclosed by a protective screen or fence.
 - (2) A public safety sign shall be posted at the base of the tower warning of high voltage and dangerous moving blades.
 - (3) The system base and rotor blade shall be a minimum of 15 feet from any overhead electrical transmission or distribution lines.
 - (4) Anchor points for guy wires for the wind machine shall be located within property lines and not on or across any overhead electrical transmission or distribution lines. Guy wires shall be equipped with devices that will, in a safe manner, prevent them from being climbed and shall be securely fastened.
 - (5) The applicant shall provide manufacturer's specifications which certify the safety of the machine; provided, that the appropriate tower was used and proper installation procedures followed, as outlined in the manual.
 - (6) The wind machine shall be operated so that no disruptive electromagnetic interference is caused. If it can be demonstrated to the director that the system is causing harmful interference, the operator shall promptly mitigate the interference.
 - (7) The system shall be kept in good repair.
 - (8) The system shall be deemed abandoned if not in continuous use for at least one year. Upon determination that the use is abandoned, the structure shall be dismantled and removed within 30 days upon written notice.
 - (9) The system shall be restricted to a rated capacity of no more than [one kilowatt] 15 kilowatts.



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- (c) In the agricultural and country zoning districts, accessory wind machines shall have a rated capacity of no more than 100 kilowatts. Wind machines with a rated capacity of more than 100 kilowatts shall require a conditional use permit (minor).
- (d) In the business zoning districts, wind machines shall have a rated capacity of no more than [10] 15 kilowatts."



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SECTION 18. Table 21-6.1, Revised Ordinances of Honolulu 1990, as amended ("Off-street Parking Requirements"), is amended by amending the OUTDOOR RECREATION and SOCIAL AND CIVIC SERVICE categories to read as follows:

"Table 21-6.1 Off-street Parking Requirements	
Use¹	Requirement²
OUTDOOR RECREATION	
Boat launching ramps	10 per launching ramp
Golf driving ranges	2 per tee stall
Marinas	1 per 2 moorage stalls
Recreation facilities, outdoor and indoor, involving swimming pools and sports played on courts	1 per 200 square feet of <u>seating area</u> , plus 3 per court, e.g., racquetball, tennis or similar <u>court</u> , and 12 per <u>outdoor play field</u>
SOCIAL AND CIVIC SERVICE	
Art galleries, museums and libraries	1 per 400 square feet
Auditoriums, funeral homes/mortuaries, meeting facilities, <u>gymnasiums</u> , sports arenas, and theaters	1 per 75 square feet of assembly area or 1 per 5 fixed seats, whichever is greater
Day-care facilities	1 [for each 10 care recipients of design capacity] <u>per 350 square feet of classroom area, meeting area, and/or gathering space, plus 1 per 400 square feet of office floor space</u>
Schools: elementary and intermediate	1 [for each 20 students of design capacity] <u>per 400 square feet of classroom area, plus 1 per 400 square feet of office floor space</u>
Schools: high, language, vocational, business, technical, and trade; business colleges	1 [for each 10 students of design capacity] <u>per 200 square feet of high school, language school, business school, or business college classroom area; 1 per 500 square feet of vocational, technical, or trade school classroom area; [,] plus 1 per 400 square feet of office floor space</u>

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SECTION 19. Section 21-7.20, Revised Ordinances of Honolulu 1990, as amended ("Definitions and general sign standards"), is amended by amending the definitions for "Flashing sign," "Projecting signs," and "Wall signs" to read as follows:

- a. "Flashing sign" means a sign designed to attract attention by the inclusion of a flashing, changing, revolving or flickering light source or a change of light intensity; and, also includes any sign involving electronically generated or controlled images, such as an electronic programmable message sign, digital sign, or plasma or LED sign, or video or holographic display."
- b. "Projecting signs" means [identification] signs with the face(s) generally perpendicular to, and which are affixed or attached to, and supported solely by, an exterior building wall and which extend beyond the building wall more than 15 inches but not greater than five feet.

Standard: Not to exceed six feet in height above the roof level of a one-story building or four feet in height above the roof level of the second story of a building over one story in height."

- c. "Wall signs" means signs with a face generally parallel with, and affixed to an exterior wall of any building.

Standard: Not to project more than 15 inches from the building wall, not to extend above the exterior wall of the building and not to exceed a height of 20 feet or the third floor level of buildings over two stories in height, whichever is the higher height; or, the roof level of the second floor for second floor establishments in buildings of only two stories in height.

For the purpose of this definition, an exterior wall shall include a parapet wall above the exterior wall and roof facade with face slope 60 percent or greater with the horizontal plane; provided that where a wall sign is to be located on a parapet wall or facade, the parapet wall or facade shall extend entirely across the side of the building, and provided further that no portion of a wall sign shall exceed six feet above the roof level. Exterior wall and parapet wall shall be as defined in Chapter 16 (Building Code), as amended."



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SECTION 20. Chapter 21, Article 8, Revised Ordinances of Honolulu 1990, as amended, is amended by adding a new Section 21-8.20A to read as follows:

"Sec. 21-8.20A Housing—Multiple dwelling units on a single country or residential district zoning lot.

A maximum of eight dwelling units may be placed on a single zoning lot in a country or residential district, provided:

- (1) The zoning lot shall have a lot area equal to or greater than the required minimum lot size for the underlying country or residential district multiplied by the number of dwelling units on or to be placed on the lot.
- (2) If the applicant wishes to erect additional dwelling units under the provisions of Section 21-8.20, ohana dwellings, the zoning lot shall be subdivided.
- (3) The number of dwelling units contained in each structure shall not be greater than permitted in the applicable zoning district.
- (4) This section shall not apply to more than eight dwelling units on a single zoning lot in a country or residential district, which must be processed under the established procedures for cluster housing, planned development housing or subdivision.
- (5) For more than two dwellings, the zoning lot shall be located with access to a street or right-of-way of sufficient access width as determined by the director to assure public health and safety."

SECTION 21. Section 21-8.30, Revised Ordinances of Honolulu 1990, as amended ("Housing--Site development plan"), is amended to read as follows:

"Sec. 21-8.30 [Housing] Farm dwellings—[Site] Agricultural site development plan.

Three to six [dwelling units] farm dwellings may be placed on a single zoning lot in an agricultural[, country or residential] district, provided [a] an agricultural site development plan for the lot is approved by the director.

- (a) Any agricultural zoning lot which has at least twice the required minimum lot size for the underlying agricultural[, country or residential] district may have two detached farm dwellings. If the applicant wishes to erect additional [dwelling



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units] farm dwellings under the provisions of Section 21-8.20, ohana dwellings, the zoning lot shall be subdivided.

- (b) The agricultural site development plan shall be in accordance with the requirements of the preliminary subdivision map as stated in the subdivision rules and regulations.
- (c) Prior to granting approval, the director shall determine that:
 - (1) The agricultural site development plan would qualify for approval under the subdivision rules and regulations if submitted in a subdivision application and roadways, utilities and other improvements comply with the subdivision rules and regulations and subdivision standards, unless modified by the director under applicable provisions specified in the subdivision rules and regulations.
 - (2) The number of [dwelling units] farm dwellings contained in each structure is not greater than permitted in the applicable zoning district.
 - (3) Except where otherwise provided in this article, each existing and future [dwelling unit] farm dwelling is located as if the lot were subdivided in accordance with the agricultural site development plan, applicable provisions of this article and the subdivision rules and regulations.
- (d) This section does not apply to applications for more than six [dwelling units] farm dwellings on a zoning lot, which must be processed under the established procedures for cluster housing, planned development housing or subdivision."



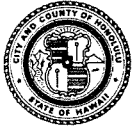
A BILL FOR AN ORDINANCE

SECTION 22. Section 21-9.60, Revised Ordinances of Honolulu 1990, as amended ("Chinatown Special District"), is amended by amending its Exhibit 21-9.10-A to read as follows:

"EXHIBIT 21-9.10-A

**CHINATOWN SPECIAL DISTRICT HISTORIC
AND ARCHITECTURALLY SIGNIFICANT STRUCTURES**

Tax Map Key	Address¹	Building Name
1-7-01: 2	55 N. Nimitz Hwy.	Pier 13 & 14
1-7-02: 2	800 Nuuanu Ave.	Fisher Hawaii Building
1-7-02: 4		State of Hawaii (shops)
1-7-02: 4	925 Maunakea St.	Fireboat Fire Station
1-7-02: 8	83 N. King St.	Goodwill Industries
1-7-02: 9,45	75 N. King St.	D. Dam/N. Tam
1-7-02: 11	900 Maunakea St.	M. Kawahara & T. Sato
1-7-02: 13	128 N. Nimitz Hwy.	C. Q. Yee Hop (stone)
1-7-02: 16	905 Kekaulike St.	Nimitz & Kekaulike
1-7-02: 17,18	915 Kekaulike St., 937 Kekaulike St.	King & Kekaulike
1-7-02: 19,21	943 Kekaulike St., 125 N. King St.	Fish Market
1-7-02: 23	101 N. King St.	Bank of Hawaii
1-7-02: 24	950 Maunakea St.	Dentist
1-7-02: 25	922 Maunakea St.	J. H. Schnack
1-7-02: 26	902 Kekaulike St.	Holau Market
1-7-02: 28	175 N. King St.	McCandless
1-7-02: 29	165 N. King St.	Musashiya
1-7-02: 34	145 N. King St.	Oahu Market
1-7-02: 35	2 Marin St.	T. R. Foster/Spaghetti-2 Bldg.
1-7-02: 39	1 N. King St.	One North King
1-7-02: 40	928 Nuuanu Ave.	Nippu Jiji
1-7-02: 45	69 N. King St.	Oka
1-7-03: 1	2 N. King St.	Hocking Hotel



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Tax Map Key	Address¹	Building Name
1-7-03: 2	36 N. King St.	United Chinese Society
1-7-03: 4,97	39 N. Hotel St.	Swing Club
1-7-03: 5	29 N. Hotel St.	29-31 Hotel Street
1-7-03: 6	15 N. Hotel St.	Nuuanu Shops
1-7-03: 7	1 N. Hotel St.	Gallery
1-7-03: 8	1044 Nuuanu Ave.	McCandless Property
1-7-03: 9	1038 Nuuanu Ave.	Kim Chow
1-7-03: 10	72 N. King St.	Hawaii National Bank
1-7-03: 11	80 N. King St.	Lum Yip Kee
1-7-03: 12	90 N. King St.	Lee & Young
1-7-03: 15	61 N. Hotel St.	Bath Palace
1-7-03: 15	61 N. Hotel St.	Mendonca (makai)
1-7-03: 16	51 N. Hotel St.	Mendonca (small, corner)
1-7-03: 18,90, 92	116 N. King St.	D & B's Lunch
1-7-03: 19	124 N. King St.	Uptown Jewelers
1-7-03: 25	119 N. Hotel St.	Lum Yip Kee 1936
1-7-03: 26	111 N. Hotel St.	Wo Fat
1-7-03: 28	1020 Kekaulike St.	Arita Store
1-7-03: 28	1020 Kekaulike St.	Kekaulike Building
1-7-03: 29,66	170 N. King St.	Lee Building
1-7-03: 30,31	178 N. King St.,	N. King & River Streets
72-74	182 N. King St.	
1-7-03: 32	165 N. Hotel St.	Wong Building
1-7-03: 33	159 N. Hotel St.	LDCST BenevSoc
1-7-03: 37	102 N. Hotel St.	Siu Building
1-7-03: 42	158 N. Hotel St.	Wong
1-7-03: 45	175 N. Pauahi St.	Komeya Apartments
1-7-03: 48	1138 Maunakea St.	Sumida Building 1926
1-7-03: 49	1130 Maunakea St.	Lum Yip Kee 1920
1-7-03: 50	1110 Maunakea St.	Lee Building
1-7-03: 51	54 N. Hotel St.	Mendonca
1-7-03: 52	1125 Maunakea St.	Ket On Society
1-7-03: 55	65 N. Pauahi St.	Barbershop



CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE 10 - 19

BILL 24 (2010), CD2

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Tax Map Key	Address¹	Building Name
1-7-03: 56	2 N. Hotel St.	Encore Saloon Building
1-7-03: 57	24 N. Hotel St.	24 Hotel Street (Mel's)
1-7-03: 58	30 N. Hotel St.	Risque
1-7-03: 59	42 N. Hotel St.	Kuo Min Tang
1-7-03: 59	42 N. Hotel St.	Young Market
1-7-03: 59	50 N. Hotel St.	Mini Garden
1-7-03: 62	1126 Nuuanu Ave.	Love's Bakery
1-7-03: 63	1136 Nuuanu Ave.	McCandless Block
1-7-03: 64	1118 Nuuanu Ave.	Lai Fong
1-7-03: 66,29	158 N. King St.	United Press, Ltd.
1-7-03: 75	136 N. King St.	L. Ah Leong
1-7-03: 76	1034 Maunakea St.	Cindy's Leis
1-7-03: 81	1021 Smith St.	
1-7-03: 83	21 N. Hotel St.	Club Hubba Hubba
1-7-03: 84-89	1023 Maunakea St.	Chung Chong Yuen
1-7-03: 96	1120 Maunakea St.	Colusa Building (part of Maunakea Marketplace)
1-7-03: 98	1128 Smith St.	1128 Smith Street
1-7-04: 1	1150 Nuuanu Ave.	Four Seas Chop Suey
1-7-04: 8	1162 Nuuanu Ave.	Bo San Ton
1-7-04: 9	1158 Nuuanu Ave.	Oweco World Travel
1-7-04: 11	1149 Maunakea St.	Yanin Ltd. Building
1-7-04: 13	1159 Maunakea St.	Tsung Tsin Association
1-7-04: 16	1165 Maunakea St.	Old Jailhouse (stone building)
1-7-04: 18	83 N. Beretania St.	Hai On Tong
1-7-04: 19	73 N. Beretania St.	79 N. Beretania Street
1-7-04: 21,22	53 N. Beretania St.	OK Restaurant (2 sections)
1-7-04: 25	1146 Smith St.	Golden Harvest
1-7-04: 28	1152 Maunakea St.	Minatoya Sukiyaki
1-7-04: 36	171 N. Beretania St.	Fong Building
2-1-02: 12	901 Bethel St.	Kamehameha V Building
2-1-02: 19	63 Merchant St.	Bishop Bank Building
2-1-02: 20	51 Merchant St.	Melcher Building



CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE 10 - 19

BILL 24 (2010), CD2

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Tax Map Key	Address ¹	Building Name
2-1-02: 24, <u>57</u>	842 Bethel St.	Old Honolulu Police Station (<u>Walter Murray Gibson Building</u>)
2-1-02: 32	924 Bethel St.	The Friend
2-1-02: 33	908 Bethel St.	Honolulu Publishing Co.
2-1-02: 34	16 Merchant St.	
2-1-02: 35	2 Merchant St.	Royal Saloon
2-1-02: [36] <u>37</u>	<u>923 Nuuanu Ave.</u>	Wing Wo Tai
2-1-02: 42	2 S. King St.	King's Court/First Federal
2-1-03: 16	1121 Nuuanu Ave.	McLean Block
2-1-03: 17	2 S. Hotel St.	Perry Block 1888
2-1-03: 18	1129 Nuuanu Ave.	Pantheon Bar

¹ In the event the listed addresses are not consistent with the tax map keys or building names, the tax map keys and building names shall prevail."

SECTION 23. Section 21-9.80-4, Revised Ordinances of Honolulu 1990, as amended ("General requirements and design controls"), is amended by amending subsection (a) to read as follows:

"(a) Uses and Structures Allowed in Required Yards and Setbacks. The provisions of Section 21-4.30 shall apply except as provided by this subsection. No business activity of any kind, including advertising, promotion, solicitation, merchandising or distribution of commercial handbills, or structures or any other use or activity, except as provided by this subsection, shall be located or carried out within any required yard, street or building setback area, except those areas occupied by enclosed nonconforming buildings. The following may be allowed in required yards and setbacks, and when used as provided by this subsection shall not be considered to change a yard's status as open space:

- (1) Newspaper sales and distribution.
- (2) Garden signs.
- (3) Porte cocheres no less than five feet back from the property line or road widening setback.



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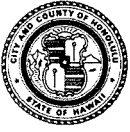
- (4) Roof eaves, awnings (including retractable awnings) and other sunshade devices not more than 42 inches vertically or horizontally beyond the building face, except as otherwise provided by this subsection. On buildings over 60 feet in height, roof eaves may extend more than 42 inches into a required yard, street setback or height setback area if the resulting roof form is integral to a cohesive, coherent design character for the structure. In no case, however, shall such extension exceed one-half the width of the required yard or height setback.
- (5) Outdoor dining areas accessory to permitted eating establishments in required front yards, subject to the following:
 - (A) A planter or hedge of not more than 30 inches in height may be provided to define the perimeter of the outdoor dining area.
 - (B) An outdoor dining area shall be no less than five feet from any property line.
 - (C) Outdoor dining facilities shall be limited to portable chairs, tables, serving devices and umbrellas. When umbrellas are used, they shall not be counted against open space calculations.
 - (D) No more than 40 percent of the front yard may be used as an accessory outdoor dining area, subject to an acceptable design. The remainder of the front yard shall be landscaped except for necessary access drives and walkways, and where lei stands are used as permitted under subdivision (6).
 - (E) Retractable awnings directly associated with an outdoor dining area may extend from the building face into the front yard by no more than 50 percent of the depth of the front yard.
 - (F) Sidewalk improvements such as, but not limited to, street trees, paving and landscaping, may be required.
 - (G) Outdoor dining areas shall not be used after 11 p.m. and before 7 a.m.
 - (H) No dancing, entertainment, or live or recorded music shall be permitted in outdoor dining areas, provided that strolling musicians using nonamplified acoustic stringed instruments or traditional



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Hawaiian wind instruments shall be permitted to perform no later than 10 p.m. when the dining areas are in use.

- (I) The requirements under paragraphs (A) through (F) may be modified, subject to a major or minor special district permit, as required by Table 21-9.6(C), to a reasonable extent as may be necessary and appropriate to adequately accommodate outdoor dining areas associated with structures that are nonconforming due to required yards, landscaping and/or open spaces.
- (6) Lei making and selling in required front yards on zoning lots where retail establishments are a permitted principal use, provided the following standards are met:
 - (A) The activity shall be no less than five feet from any property line.
 - (B) No more than 10 percent of the front yard may be used for lei stands. The remainder of the front yard shall be landscaped except for necessary access drives or walkways, and where outdoor dining is used as permitted under subdivision (5).
 - (C) Signs. Refer to Article 7 for permitted signs.
 - (D) The operator of a lei stand shall provide for the concealed disposal of trash associated with the use.
- (7) Vending carts in required front yards on zoning lots where retail establishments are a permitted principal use, provided the following standards are met:
 - (A) The front yard shall conform to the applicable front yard standard set forth in Table 21-9.6(B).
 - (B) Only food, nonalcoholic drinks and fresh cut or picked flowers may be sold. Food consistent with a Hawaiian sense of place shall be encouraged.
 - (C) The cart shall be no less than five feet from any property line.
 - (D) Only one cart per front yard per zoning lot shall be permitted.
 - (E) Permitted signs shall be in accordance with Article 7.



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- (F) The cart operator shall provide for the concealed disposal of trash associated with the use.
- (8) Walls and fences for dwelling uses, other than nonconforming hotels and/or transient vacation units, in the apartment precinct, up to a maximum height of six feet, provided the wall or fence shall be set back not less than 24 inches from the front property line and shall be acceptably screened with planting material from the street side. The wall or fence shall consist of an open material, preferably wrought iron or lattice work, but not chain link. Solid walls are discouraged, but may be permitted when constructed of an acceptable material, such as wood, moss rock or stucco-finished masonry, set back at least five feet from the front property line and acceptably screened with planting material from the street side.
- (9) Interactive informational displays, provided the following standards are met:
- (A) Only one interactive informational display per common entryway to a project site shall be permitted, which shall not encroach into or otherwise obstruct any public sidewalk or pedestrian easement. For purposes of this subdivision, a "common entryway" shall mean an opening providing public pedestrian access to two or more business establishments from any public sidewalk, pedestrian easement, or right-of-way.
- (B) The interactive informational display shall consist of a freestanding structure, not exceeding 48 inches in height.
- (C) The display area shall not exceed 8 square feet, and shall be essentially horizontal in its orientation so as not to be functionally viewable from adjoining streets or sidewalks.
- (D) No signs regulated under Article 7 of this chapter shall be attached to the interactive informational display structure, nor shall there be any speaker boxes, public address systems, or other devices for reproducing or amplifying voices or sound attached to or associated with the structure."



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SECTION 24. Section 21-9.80-4, Revised Ordinances of Honolulu 1990, as amended ("General requirements and design controls"), is amended by amending subsection (c) to read as follows:

"(c) Design guidelines.

- (1) General Guidelines. All structures, open spaces, landscape elements and other improvements within the district shall conform to the guidelines specified on the urban design controls marked Exhibit 21-9.15, set out at the end of this article, the design standards contained in this section and other design guidelines promulgated by the director to further define and implement these standards.
- (2) Yards. Yard requirements shall be as enumerated under development standards for the appropriate zoning precinct under Table 21-9.6(B).
- (3) Automobile Service Stations and Car Rental Establishments. Automobile service stations and car rental establishments shall comply with the following requirements:
 - (A) A minimum side and rear yard of five feet shall be required with a solid fence or wall at least six feet in height on the property line with the required yard substantially landscaped with planting and maintained.
 - (B) The station shall be illuminated so that no unshielded, unreflected or undiffused light source is visible from any public area or private property immediately adjacent to the station.
 - (C) All areas not landscaped shall be provided with an all-weather surface.
 - (D) No water produced by activities on the zoning lot shall be permitted to fall upon or drain across public streets or sidewalks.
- (4) Utility Installations. [Utility] Except for antennas, utility installations shall be designed and installed in an aesthetic manner so as to hide or screen wires and equipment completely from view, including views from above [(except for antennas).]; provided that any antenna located at a height of 40 feet or less from existing grade should take full advantage of stealth technologies in order to be adequately screened from view at ground level without adversely affecting operational capabilities.



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- (5) Building Materials. Selection and use of building materials should contribute to a Hawaiian sense of place through the use of subdued and natural materials, such as plaster finishes, textured concrete, stone, wood and limited use of color-coated metal. Freestanding walls and fences should be composed of moss rock, stucco-finished masonry or architectural concrete whenever possible. Colors and finishes shall be characterized as being absorptive rather than reflective. The use of shiny metal or reflective surfaces, including paints and smooth or plastic-like surfaces should be avoided.
- (6) Building Scale, Features and Articulation. Project designs should provide a human scale at ground level. Buildings composed of stepped forms are preferred. Articulated facades are encouraged to break up building bulk. Use of the following building features is encouraged: sunshades; canopies; eaves; lanais; hip-form roofs for low-rise, freestanding buildings; recessed windows; projecting eyebrows; and architectural elements that promote a Hawaiian sense of place.
- (7) Exterior Building Colors. Project colors should contribute to a tropical resort destination. They should complement or blend with surrounding colors, rather than call attention to the structure. Principal colors, particularly for high-rise towers, should be of neutral tones with more vibrant colors relegated to accent work. Highly reflective colors shall not be permitted.
- (8) Ground Level Features.
 - (A) Within a development, attention should be given to pedestrian-oriented ground level features. A close indoor-outdoor relationship should be promoted. Design priority should include the visual links through a development connecting the sidewalk and other public areas with on-site open spaces, mountains and the ocean.
 - (B) Building facades at the ground level along open spaces and major streets (including Kalakaua Avenue, Kuhio Avenue, Kapahulu Avenue, Ala Wai Boulevard and Ala Moana Boulevard) shall be devoted to open lobbies, arcade entrances, and display windows, and to outdoor dining where it is permitted.
 - (C) Where commercial uses are located at ground level, other than as required by paragraph (B), at least one-half of the total length of the



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building facade along streets shall be devoted to open lobbies, arcade entrances, display windows and outdoor dining where permitted.

- (D) The street facades of ground level hotel lobbies should include wide, open entryways. Ventilation in these lobbies should primarily depend on natural air circulation.
 - (E) Where buildings are situated between a street and the shoreline or between a street and open spaces, ground level lobbies, arcades and pedestrian ways should be provided to create visual links between the street and the shoreline or open space.
 - (F) Where blank walls must front a street or open space, they shall be screened with heavy landscaping or appropriately articulated exterior surfaces.
 - (G) Ground level parking facilities should not be located along any street, park, beachfront, public sidewalk or pedestrian way. Where the site plan precludes any other location, the garage may front these areas provided landscaping is provided for screening. Principal landscaping shall include trees, and secondary landscape elements may include tall hedges and earth berms.
 - (H) For purposes of the Waikiki special district, an "open lobby" shall mean a ground-floor lobby which shall not be enclosed along the entire length of at least two of its sides or 50 percent of its perimeter, whichever is greater, and which shall provide adequate breezeways and views to interior and/or prominent open spaces, intersecting streets, gateways or significant pedestrian ways.
- (9) Outdoor Lighting. Outdoor lighting shall be subdued or shielded so as to prevent glare and light spillage onto surrounding properties and public rights-of-way. It shall not be used to attract attention to structures, uses or activities; provided, however, that indirect illumination which shall be integrated with the architectural design of a building may be allowed when it is utilized to highlight and accentuate exterior building facades, and architectural and/or ground level features. Rotating, revolving, moving, flashing and flickering lights shall not be visible to the public, except lighting installed by a public agency for traffic safety purposes or temporary lighting related to holiday displays."

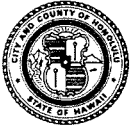


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SECTION 25. Section 21-9.80-4, Revised Ordinances of Honolulu 1990, as amended ("General requirements and design controls"), is amended by amending subsection (e) to read as follows:

- "(e) Nonconformity. The provisions of Section 21-4.110, et seq., shall apply, except as provided in this subsection.
- (1) A nonconforming use and/or structure may be replaced by a new structure with up to the maximum permitted floor area of the precinct for similar uses or existing floor area, whichever is greater, provided all other special district standards are met. To achieve this, the following special district standards may be modified, subject to a major special district permit approval:
- (A) Open Space. Minimum required open space may be adjusted, as follows:
- (i) For each square foot of public open space provided on the lot, the open space may be reduced by one square foot. If provided, front yards may be included as public open space; and
 - (ii) For every two square feet of arcade space provided on the lot, the open space may be reduced by one square foot; and
 - (iii) For every four square feet of open lobby space on the lot, the open space may be reduced by one square foot.
 - (iv) In the event that the cumulative area of the required yards exceeds the minimum open space requirement for the lot, the resultant cumulative yards may be considered the minimum open space requirement for the lot.

In no event shall the total open space be less than (aa) 25 percent of the lot area or (bb) the cumulative area of the required yards, whichever is greater. In addition, the open space arrangement shall not obstruct or diminish any significant views which are to be preserved, protected or enhanced; shall not obstruct, prevent or interfere with any identified gateways and/or pedestrian ways; and shall be consistent with the intent and objectives of the Waikiki special district.



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- (B) Off-street Parking. Parking and loading requirements may be adjusted, subject to the submission of a parking management plan that shall be reviewed and approved by the director.
- (C) Height. If the height of an existing structure exceeds the maximum height for the lot, then the height of the existing structure may be retained, provided the new structure or structures:
 - (i) Do not obstruct or diminish any significant views which are to be preserved, protected and enhanced; and/or
 - (ii) Do not obstruct, prevent or interfere with an identified gateway and/or pedestrian way; and
 - (iii) Are consistent with the intent and objectives of the Waikiki special district.
- (2) In case of the accidental destruction of a nonconforming structure devoted to a conforming use which contains multifamily dwelling units, it may be restored to its original condition in accordance with Section 21-4.110.
- (3) Nonconforming uses shall not be limited to “ordinary repairs” or subject to value limits on repairs or renovation work performed. Exterior repairs and renovations which will not modify the arrangement of buildings on a zoning lot may be permitted, provided all special district standards are met.
- (4) Elements of nonconforming structures, including but not limited to, signs, menu displays, awnings and building facades may be renovated, reconfigured, or replaced, provided the work:
 - (A) Results in a reduction of the nonconformity;
 - (B) Is an improvement over the existing condition of the structure;
 - (C) Implements the design intents and requirements of the special district; and
 - (D) Does not increase floor area.
- (5) The floor area of a structure which already meets or exceeds maximum permitted density may be increased to replace or retrofit electrical or mechanical equipment, utilitarian spaces, or improvements specifically



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required to comply with federal mandates such as the Americans with Disabilities Act (ADA) or National Environmental Policy Act (NEPA), provided:

- (A) The increase in floor area is relatively insignificant in relation to the existing structure;
- (B) Adequate screening of building equipment or machinery is provided when necessary to protect the design intents of the special district;
- (C) The increase does not result in a net loss in required open space, arcades, or landscaping; and
- (D) Other than for dwelling units, existing on-site parking spaces may be removed, provided:
 - (i) There are no feasible alternatives to the location of the equipment or utility room; and
 - (ii) The number of off-street parking spaces removed is less than (aa) five percent of the total number of existing spaces, if the total number of existing spaces is 100 or less; or (bb) three percent of the total number of existing spaces, if the total number of existing spaces is more than 100.
- (6) Notwithstanding any ordinance to the contrary, nonconforming hotel units may be time sharing units, subject to applicable state law.
- (7) Unless voluntarily abandoned, nonconforming uses which have been temporarily discontinued for purposes of redevelopment and/or renovation, as permitted by this subsection, shall not otherwise be subject to the discontinuation of use provisions enumerated in Section 21-4.110(c)(2)."

SECTION 26. Section 21-10.1, Revised Ordinances of Honolulu 1990, as amended ("Definitions"), is amended by amending the definitions for "Automobile service station"; "Crop production"; "Hotel"; "Repair establishments, minor and major"; "Retail establishments"; and "Time sharing" to read as follows:

- a. "Automobile service station" means a retail establishment which primarily provides gasoline, oil, grease, batteries, tires or automobile accessories and



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where, in addition, the following routine and accessory services may be rendered and sales made, but no other:

- (1) Servicing of spark plugs, batteries, tires;
- (2) Radiator cleaning and flushing;
- (3) Washing and polishing, including automated, mechanical facilities;
- (4) Greasing and lubrication;
- (5) Repair and servicing of fuel pumps, oil pumps and lines, carburetors, brakes and emergency wiring;
- (6) Motor adjustments not involving repair of head or crankcase;
- (7) Provision of cold drinks, packaged foods, tobacco and similar convenience goods for gasoline supply station customers, but only as accessory and incidental to the principal operation, and not to exceed 400 square feet of floor area;
- (8) Provision of road maps and other information material to customers;
- (9) Provision of rest room facilities;
- (10) Parking as an accessory use;
- (11) Towing service.

The following are not permitted: tire recapping or regrooving, body work, straightening of frames or body parts, steam cleaning, painting, welding, or non-transient storage of automobiles not in operating condition, or permitted repair activities not conducted within an enclosed structure in any zoning district other than the industrial districts."

- b. "“Crop production” means agricultural and horticultural uses, including production of grains, field crops, and indoor and outdoor nursery crops, vegetables, fruits, tree nuts, flower fields and seed production, ornamental crops, tree and sod farms, associated crop preparation services and harvesting activities.”



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- c. ““Hotel” means a building or group of buildings containing lodging and/or dwelling units [in which 50 percent or more of the units are lodging units] offering transient accommodations, and[. A hotel includes] a lobby, clerk’s desk or counter with 24-hour clerk service, and facilities for registration and keeping of records relating to hotel guests. A hotel may also include accessory uses and services intended primarily for the convenience and benefit of the hotel’s guests, such as restaurants, shops, meeting rooms, and/or recreational and entertainment facilities.”
- d. ““Repair establishments, minor and major” means establishments which primarily provide restoration, reconstruction and general mending and repair services. “Minor repair establishment” uses include those repair activities which have little or no impact on surrounding land uses and can be compatibly located with other businesses. “Major repair establishment” uses include those repair activities which are likely to have some impact on the environment and adjacent land uses by virtue of their appearance, noise, size, traffic generation or operational characteristics.
- (1) Minor.
- (A) Automobile (including pickup trucks), motorcycle, moped, motorized bicycle, boat engine, motorized household appliance (e.g., refrigerator, washing machine, dryer) and small equipment (e.g., lawn mower) repairing, including painting, provided all repair work is performed within an enclosed structure in other than the industrial districts, and does not include repair of body and fender, and straightening of frame and body parts.
- (B) Production and repair of eyeglasses, hearing aids and prosthetic devices.
- (C) Garment repair.
- (D) General fixit shop.
- (E) Nonmotorized bicycle repair.
- (F) Radio, television and other electrical household appliance repair.
- (G) Shoe repair.



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- (H) Watch, clock, jewelry repair.
- (2) Major.
 - (A) Blacksmiths.
 - (B) Ship engine cleaning and repair.
 - (C) Airplane motor repair and rebuilding.
 - (D) Furniture repair.
 - (E) Industrial machinery and heavy equipment repair.
 - (F) Bus and truck repair.
 - (G) Repair of vehicle (all types) body and fender, and straightening of frame and body parts."
- e. "Retail establishments" means the sale of commodities or goods to the consumer and may include display rooms and incidental manufacturing of goods for retail sale on premises only. Typical retail establishments include grocery and specialty food stores, general department stores, drug and pharmaceutical stores, hardware stores, pet shops, appliance and apparel stores, motorized scooter and bicycle sales and rentals, and other similar retail activities. This term also includes establishments where food or drink is sold on the premises for immediate consumption, but which lack appropriate accommodations for on-premise eating and drinking. The term does not include open storage yards for new or used building materials, yards for scrap, salvage operations for storage or display of automobile parts, service stations, repair garages or veterinary clinics and hospitals."
- f. "Time sharing" means the ownership and/or occupancy of a dwelling or lodging unit regulated under the provisions of HRS Chapter 514E, as amended, relating to time share plan and time share unit hereinafter defined:
 - (1) "Time share plan" means any plan or program in which the use, occupancy or possession of one or more time share units circulates among various persons for less than a 60-day period in any year for any occupant. The term "time share plan" shall include both time share ownership plans and time share use plans, as follows:



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- (A) "Time share ownership plan" means any arrangement whether by tenancy in common, sale, deed or by other means, whereby the purchaser received an ownership interest and the right to use the property for a specific or discernible period by temporal division.
- (B) "Time share use plan" means any arrangement, excluding normal hotel operations, whether by membership agreement, lease, rental agreement, license, use agreement, security or other means, whereby the purchaser receives a right to use accommodations or facilities, or both, in a time share unit for a specific or discernible period by temporal division, but does not receive an ownership interest.
- (2) "Time share unit" means the actual and promised accommodations and related facilities, which are the subject of a time share plan; and, may be either a hotel, transient vacation, or multi-family dwelling unit."

SECTION 27. Section 21-10.1, Revised Ordinances of Honolulu 1990, as amended ("Definitions"), is amended by adding new definitions for "Biofuel processing facility" and "Plantation community subdivision" to be inserted in the proper alphabetical order by the revisor of ordinances and to read as follows:

- a. "Biofuel processing facility" means a biofuel processing facility as defined under HRS Section 205-4.5(a)(15)."
- b. "Plantation community subdivision" means a plantation community subdivision as defined under HRS Section 205-4.5(a)(12)."

SECTION 28. Ordinance material to be repealed is bracketed and new material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the revisor of ordinances need not include the brackets, the bracketed material, or the underscoring.



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SECTION 29. This ordinance shall take effect upon its approval.

INTRODUCED BY:

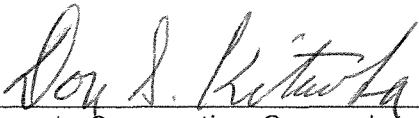
Todd Apo (BR)

DATE OF INTRODUCTION:


March 31, 2010
Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:


Deputy Corporation Counsel

APPROVED this 2nd day of September, 2010.


KIRK W. CALDWELL, Acting , Mayor
City and County of Honolulu

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
C E R T I F I C A T E

ORDINANCE 10 - 19

BILL 24 (2010), CD2

Introduced: 03/31/10 By: TODD APO (BR)

Committee: ZONING

Title: A BILL FOR AN ORDINANCE TO AMEND CHAPTER 21, REVISED ORDINANCES OF HONOLULU 1990, AS AMENDED (THE LAND USE ORDINANCE), RELATING TO THE LAND USE ORDINANCE.

Links: [BILL 24 \(2010\) \(2MB\)](#)
[BILL 24 \(2010\), CD1](#)
[BILL 24 \(2010\), CD2](#)
[CR-166](#)
[CR-193](#)
[CR-229](#)

COUNCIL	04/21/10	BILL PASSED FIRST READING AND WAS REFERRED TO COMMITTEE ON PLANNING.							
ANDERSON	Y	APO	Y	CACHOLA	Y	DELA CRUZ	Y	DJOU	Y
GARCIA	Y	KOBAYASHI	Y	OKINO	Y	TAM	Y		
PLANNING	05/27/10	CR-166 – 90-DAY EXTENSION OF TIME REPORTED OUT OF COMMITTEE FOR APPROVAL. (CURRENT DEADLINE: 06/22/10 NEW DEADLINE: 09/20/10)							
		NOTE: EFFECTIVE MAY 25, 2010, COUNCILMEMBER CHARLES DJOU, REPRESENTING COUNCIL DISTRICT IV, RESIGNED FROM OFFICE. (Refer to Communication <u>CC-99</u>)							
		ON JUNE 9, 2010, THE APPOINTMENT OF LEE DONOHUE WAS APPROVED (Refer to <u>RES10-132, CD1, FD1 (VERSION A)</u>) AND HE WAS SWORN INTO OFFICE AS A MEMBER OF THE HONOLULU CITY COUNCIL REPRESENTING DISTRICT IV TO FILL THE REMAINING TERM OF FORMER COUNCILMEMBER CHARLES DJOU.							
COUNCIL	06/09/10	CR-166 ADOPTED (DEADLINE: 09/20/10)							
ANDERSON	Y	APO	Y	CACHOLA	Y	DELA CRUZ	Y	DONOHUE	Y
GARCIA	Y	KOBAYASHI	Y	OKINO	Y	TAM	Y		
		CC-119 BILL RE-REFERRED FROM PLANNING TO ZONING COMMITTEE.							
ZONING	07/06/10	CR-193 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AS AMENDED IN <u>CD1</u> FORM AND SCHEDULING OF A PUBLIC HEARING.							
PUBLISH	07/03/10	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.							
COUNCIL/PUBLIC HEARING	07/14/10	CR-193 ADOPTED. BILL PASSED SECOND READING AS AMENDED, PUBLIC HEARING CLOSED AND REFERRED TO COMMITTEE ON ZONING.							
ANDERSON	Y	APO	Y	CACHOLA	Y	DELA CRUZ	Y	DONOHUE	Y
GARCIA	Y	KOBAYASHI	Y	OKINO	A	TAM	Y		
PUBLISH	07/22/10	SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.							
ZONING	08/03/10	CR-229 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING AS AMENDED IN <u>CD2</u> FORM.							

COUNCIL	08/18/10	CR-229 ADOPTED AND BILL 24 (2010), CD2 PASSED THIRD READING AS AMENDED.							
ANDERSON	Y	APO	Y	CACHOLA	Y	DELA CRUZ	Y	DONOHUE	Y
GARCIA	Y	KOBAYASHI	Y	OKINO	Y	TAM	Y		

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this BILL.

Bernice K. N. Mau

BERNICE K. N. MAU, CITY CLERK

Todd K. APO

TODD K. APO, CHAIR AND PRESIDING OFFICER